

Official Title and Summary

Prepared by the Attorney General

PUBLIC SCHOOL TEACHERS. WAITING PERIOD FOR PERMANENT STATUS. DISMISSAL. INITIATIVE STATUTE.

- Increases length of time required before a teacher may become a permanent employee from two complete consecutive school years to five complete consecutive school years.
- Measure applies to teachers whose probationary period commenced during or after the 2003–2004 fiscal year.
- Modifies the process by which school boards can dismiss a permanent teaching employee who receives two consecutive unsatisfactory performance evaluations.

SUMMARY OF LEGISLATIVE ANALYST’S ESTIMATE OF NET STATE AND LOCAL GOVERNMENT FISCAL IMPACT:

- Unknown net effect on school districts’ costs for teacher compensation, performance evaluations, and other activities. The impact would vary significantly by district and depend largely on future personnel actions by individual school districts.

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Most of the employees of K–12 school districts are referred to as “certificated” employees. These consist mainly of teachers but also include instructional specialists, counselors, and librarians.

All of these employees must have some type of license (or certificate) prior to being employed by a district to show basic qualifications in their job area.

Job Status of Certificated Employees. Under current state law, certificated employees serve a *probationary* period during their first two years of service

LENGTH OF STATES’ PROBATIONARY PERIOD FOR K–12 TEACHERS						
ONE YEAR	TWO YEARS	THREE YEARS			FOUR YEARS	FIVE YEARS
Connecticut North Dakota South Carolina	California Illinois Maine Maryland Mississippi Nevada New Hampshire Vermont Washington	Alaska Alabama Arizona Arkansas Colorado Delaware Florida Georgia Hawaii Idaho Iowa	Kansas Louisiana Massachusetts Minnesota Montana Nebraska New Jersey New Mexico New York Ohio Oklahoma	Oregon Pennsylvania Rhode Island South Dakota Tennessee Texas Utah Virginia West Virginia Wisconsin Wyoming	Kentucky Michigan North Carolina	Indiana Missouri

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

with a school district. During the probationary period, state law currently requires certificated employees to be evaluated at least once a year. At the end of the employees' first or second year, school districts may choose not to rehire them without offering specific reasons. If not rehired, probationary employees do not have the right to challenge the decision. At the start of their third year, certificated employees are considered *permanent* (or tenured). (See the nearby boxes for some additional information related to California's probationary policies for certificated employees, primarily teachers.)

Dismissal Process for Permanent Employees.

Under current state law, permanent certificated employees may be dismissed for unsatisfactory performance as well as a variety of other reasons (such as dishonesty and unprofessional conduct). Most permanent employees must be evaluated at least once every two years. If, however, they receive an unsatisfactory evaluation, they must be assessed annually until they achieve a satisfactory evaluation or are dismissed. Regardless of the reason for a dismissal, the dismissal process (also set forth in state law) consists of about a dozen stages. The process begins with a school district specifying reasons for dismissal and providing a 30-day notice of its intent to dismiss. If requested by the employee, the process includes a formal administrative hearing and the right to appeal to a Superior Court and then a Court of Appeal. Before being dismissed for unsatisfactory performance, the school district must first provide

employees a 90-day period to allow them an opportunity to improve their performance.

PROPOSAL

Proposition 74 would change existing state law in the following ways.

Extends Probationary Period to Five Years.

The proposition extends from two to five years the probationary period for new certificated employees.

Modifies Dismissal Process for Permanent Employees.

The proposition states that two consecutive unsatisfactory performance evaluations constitute unsatisfactory performance for the purposes of dismissing permanent employees. In these cases, the school board would have the discretion to dismiss the employee and the board would *not* have to:

- Provide the 90-day period currently given to permanent employees to allow them to improve their performance.
- Provide as much initial documentation identifying specific instances of unsatisfactory performance (beyond that included in the evaluations themselves).

The effect of these changes would be to reduce requirements in the initial stages of the dismissal process and potentially place greater focus on the evaluation process. Although these changes would apply to all certificated employees, their primary effect would be on teachers.

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)

BRIEF HISTORY OF CALIFORNIA'S PROBATIONARY POLICIES

From 1927 to 1982, California had a three-year probationary period. Over this time, probationary employees typically had at least limited legal rights to challenge dismissal decisions.

The most recent major change to the state's probationary policies occurred in 1983 when the probationary period was shortened from three to two years. In addition, certain legal protections then afforded to probationary employees were removed. These policies remain in effect today.

- Given the longer probationary period, districts could dismiss more teachers during their first five years. This could result in salary savings by replacing higher salaried teachers toward the end of their probationary period with lower salaried teachers just beginning their probationary period.
- Similarly, due to the proposition's modifications to the dismissal process, school districts might experience greater turnover among permanent teachers. This too would result in teacher-related savings from replacing higher salaried veteran teachers with lower salaried, less experienced teachers.

In contrast, districts would experience *increased* teacher costs in the following instances:

- The supply of teachers could be reduced because the longer probationary period and modified dismissal process might be perceived as increasing job insecurity. This would have the effect of putting upward pressure on teacher compensation costs.
- The longer probationary period could lead districts to retain some struggling new teachers beyond the current two-year period to give them additional chances to succeed. By retaining these teachers—instead of replacing them with lower-cost entry level teachers—this would have the effect of increasing teacher salary costs above what they otherwise would have been.

As noted above, the net impact on a school district could vary significantly, depending on such factors as the local labor market, the perceived desirability of working in the district, and district actions in response to the measure.

FISCAL EFFECTS

The proposition would affect costs relating to teacher compensation, performance evaluations, and other activities.

EFFECT ON TEACHER COMPENSATION COSTS

The proposition would affect school district teacher costs in a variety of ways. The net impact would depend on future district actions, and these effects would vary significantly by district. For example, districts would experience *reduced* teacher costs in the following cases:

ANALYSIS BY THE LEGISLATIVE ANALYST (CONTINUED)**EFFECT ON EVALUATION COSTS**

The proposition would increase teacher performance evaluation costs. Under current law, employees must receive at least three evaluations over their first five years. Under the proposition, they would need to receive five evaluations over this same period. That is, districts would need to conduct up to two additional evaluations for probationary employees. In addition, given the higher stakes involved with unsatisfactory evaluations, school districts might spend more time documenting these assessments.

These costs would also vary significantly from district to district. The costs could range from minor (for districts meeting these additional tasks with existing administrative staff) to more significant (for those adding additional staff to meet these responsibilities). Depending on how districts respond, the statewide costs could range from relatively minor to the low tens of millions of dollars annually.

OTHER FISCAL IMPACTS

The measure would have other potential impacts on the state and school districts.

Administrative and Legal Costs. The proposition's effect on school district administrative and legal costs is unknown. On the one hand, the

proposition simplifies the dismissal process by requiring slightly less documentation and eliminating the special 90-day notice required for dismissals due to unsatisfactory performance. This would likely result in some administrative savings. On the other hand, given the somewhat simplified dismissal process, teacher dismissals might become more frequent. As a result, the number of teacher requests for administrative hearings and appeals, and their associated costs, could increase.

Bargaining Costs. Collective bargaining costs could increase as a result of the proposition. Evaluation procedures are subject to collective bargaining and are commonly found in teacher contracts. To the extent the evaluation process became higher stakes, related negotiations might take longer and be more costly. These costs would be associated with revising the evaluation process, refining evaluation standards, and/or defining unsatisfactory performance. The state would pay any additional costs, as it currently reimburses local school districts for their collective bargaining expenses.

Recruitment and Training. To the extent that districts have more or less teacher turnover as a result of this measure, their recruitment and training costs would be affected accordingly.